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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/807,366	04/12/2001	Mary Vijayarani Barnabas	7312M	7246

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THE PROCTER & GAMBLE COMPANY
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EXAMINER

KUMAR, PREETI

ART UNIT	PAPER NUMBER
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1751

DATE MAILED: 10/01/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/807,366

Applicant(s)

BARNABAS ET AL.

Examiner

Preeti Kumar

Art Unit

1751

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 30 June 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 49-88 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 49-88 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☒ Claim(s) 49 are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- ☐ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: _____

DETAILED ACTION

Non-Final Rejection after RCE

Election/Restrictions

1. Claim 49 generic to a plurality of disclosed patentably distinct species comprising odor control agent. Applicant is required under 35 U.S.C. 121 to elect a single disclosed species, even though this requirement is traversed.
2. Should applicant traverse on the ground that the species are not patentably distinct, applicant should submit evidence or identify such evidence now of record showing the species to be obvious variants or clearly admit on the record that this is the case. In either instance, if the examiner finds one of the inventions unpatentable over the prior art, the evidence or admission may be used in a rejection under 35 U.S.C. 103(a) of the other invention.
3. During a telephone conversation with Carolyn Wei-Berk on August 12, 2004 a provisional election was made with traverse to limit the odor control agent cyclodextrin in claim 49. Affirmation of this election must be made by applicant in replying to this Office action.

Response to Amendment

4. Claims 49-88 are pending.
5. The objection to Claim 69 under 37 CFR 1.75(c), is withdrawn.
6. The rejection of claim 50 under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement is withdrawn since Applicant specified that the support is found on page 9 second paragraph.

7. The rejection of claims 49-51, 54-76, 78-88 under 35 U.S.C. 102(e) as being anticipated by Trinh et al. (US 6,001,343) is withdrawn in light of the Declaration under 37 C.F.R. 1.132 filed June 30, 2004.
8. Claims 52-53 are rejected under 35 U.S.C. 103(a) as being unpatentable over Trinh et al. (US 6,001,343) is withdrawn in light of the Declaration under 37 C.F.R. 1.132 filed June 30, 2004.
9. The rejection of claims 50-88 under 35 U.S.C. 112, second paragraph, is withdrawn in light of applicant's amendment to the claims.
10. The rejection of claims 49 and 70 under 35 U.S.C. 112, second paragraph, is maintained for the reasons recited in the previous office action.

Specifically regarding claim 49, the specification nor the claims recite what applicant's meaning to exclude by the phrase " free of any builder". It is common knowledge in the art that many oligosaccharides are common detergent builders. Builders can be put into 5 groups: Phosphates (two classes: orthophosphates and complex phosphates), Silicates, Carbonates, Oxygen Releasing Materials, and Sundry Organic Builders including enzymes, borax $\text{Na}_2\text{B}_4\text{O}_7 \cdot 5\text{H}_2\text{O}$, sodium chloride NaCl , magnesium sulphate MgSO_4 , ammonia, caustic alkalis (sodium hydroxide and potassium hydroxide), anti-redeposition agents (CMC), optical brighteners (derivatives of coumarin or stilbene), chelating agents (EDTA (Ethylene diamine tetra-acetic acid), and NTA (Nitrilo triacetic acid), triethanolamine, hydrocarboxylic acid (gluconic acid, citric acid, tartaric acid)). The examiner's statement of common knowledge is supported by U.S. Pat. No. 3,634,392 which teach carboxymethylated oligosaccharides used in

detergents as builders. The U.S. Pat. No. 3,634,392 reference illustrate the state of the art that is common knowledge and is not relied upon as prior art. Hence, the amendment to claim 49, by adding the limitation of "said composition is free of any builder" is also excluding the limitation to oligosaccharides. The claim no longer makes any sense since what is included and excluded by the term builder is not defined or supported by the specification.

Specifically regarding claim 70, the limitation recited does not make clear or define the boundaries of the subject matter for which patent protection is sought. Claim 70 is reciting the specific salts of metals in groups 3b-7b, 8 and 3a-5a. This is indefinite because the claim limitation does not explicitly recite the salts of metal elements from the periodic table for which patent protection is sought. Furthermore, the use of parenthesis is indefinite because it is unclear whether the limitations within the parenthesis are part of the claimed invention.

11. The rejection of claims 49, 54-56, 60-63, 69, 71-73, 76, 79, 84-88 under 35 U.S.C. 102(b) as being anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over Burzio et al. (US 5,496,494) is maintained for the reasons recited in the previous office action and further explained below.

12. The rejection of claims 50, 52-53, 57-59, 64-68, 70, 74-75 under 35 U.S.C. 103(a) as being unpatentable over Burzio et al. (US 5,496,494) is maintained for the reasons recited in the previous office action.

Response to Arguments

13. Applicant's arguments filed June 30, 2004 have been fully considered but they are not persuasive.

Applicant's urge that Burzio et al. does not anticipate the presently claimed invention because Burzio et al. is not directed to a detergent that is a liquid carrier based detergent. Contrary to applicant's argument, Burzio et al. et al. teach a composition for treating textiles comprising a non-reducing carbohydrate and/or non-reducing carbohydrate derivatives including sugar alcohols, the improvement comprising the addition of the composition to the washing cycle. See col.2, ln.11-20. Accordingly, the broad teachings of Burzio et al. appear to anticipate the material limitations of the instant claims. Alternatively, even if the broad teachings of Burzio et al. are not sufficient to anticipate the material limitations of the instant claims, it would have been nonetheless obvious to one of ordinary skill in the art, to arrive at a composition comprising a liquid carrier comprising water since it is well within the skill of one of ordinary skill in the art to know that sugar alcohol may be in any suitable form such as powder, liquid or syrup and may consist essentially of a carrier such as dextrose, lactose, maltodextrin or water.

Applicant's also urge that Burzio et al. teach away from a composition that comprises no builders. However, contrary to applicant's arguments, the instant claims are drawn to a composition comprising oligosaccharides and an odor control agent comprising cyclodextrin in general and free from any builder which has not been defined or supported by applicants specification. Furthermore, examiner draws attention to the

fact that the co-builders recited by Burzio et al. are oligosaccharides recited by the instant claims. Please see col.2, ln.5-10.

Accordingly, the rejection of claims 49, 54-56, 60-63, 69, 71-73, 76, 79, 84-88 under 35 U.S.C. 102(b) as being anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over Burzio et al. (US 5,496,494) is maintained.

New Grounds of Rejection

Claim Objections

14. Claim 73 is objected to under 37 CFR 1.75(c), as being of improper dependent form for failing to further limit the subject matter of a previous claim. Applicant is required to cancel the claim(s), or amend the claim(s) to place the claim(s) in proper dependent form, or rewrite the claim(s) in independent form. All of the limitations of the instant claim are optional except water. The limitation to water is already present in the independent claim 49, hence the material limitations of claim 73 do not further limit claim 49.

Specification

15. The disclosure is objected to because of the following informalities:

35 U.S.C. 112, first paragraph, requires the specification to be written in "full, clear, concise, and exact terms." The specification is replete with terms which are not clear, concise and exact. The specification should be revised carefully in order to comply with 35 U.S.C. 112, first paragraph. Examples of some unclear, inexact or verbose terms used in the specification are: what the applicant means by the phrase "free of any builder". Appropriate correction is required.

Claim Rejections - 35 USC § 112

16. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

17. Claim 49 is rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. Claim 49 as amended is drawn to an effective amount of a composition comprising oligosaccharides and an odor control agent comprising cyclodextrin and a liquid carrier comprising water; said composition is free of any builder. Examiner does not find basis for the limitation of "said composition is free of any builder". Actually examiner finds basis to the contrary of the claimed limitation on page 44, last paragraph and pages 97-99.

Conclusion

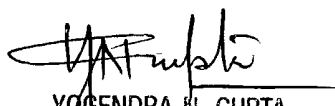
18. The prior art made of record on September 2, 2003, specifically US 6,528,013 and 5,968,404, and not relied upon in a formal written rejection, are considered to have equal pertinence and relevance to applicant's disclosure as US 6,001,343. Examiner notes that only US 6,001,343 has been overcome by the Declaration under 37 C.F.R. 1.132.

19. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Preeti Kumar whose telephone number is 571-272-1320. The examiner can normally be reached on M-F 9:00am - 5:30pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Yogendra N. Gupta can be reached on 571-272-1316. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Preeti Kumar
Examiner
Art Unit 1751


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